

§ 103.28 Filing and recording.

(a) All securing documents and financing statements, when applicable, except assignments of income from trust land and mortgages on documented vessels, shall be filed or recorded in the appropriate county or other public office in accordance with state law. Mortgages on documented vessels will be filed at the Customs House designated as the home port of the vessel as shown on the marine document. Security interests in personal property will be perfected in accordance with the provisions of Article 9 of the Uniform Commercial Code in states in which the code has been adopted.

(b) Lenders are responsible for filing a copy of assignments of income from trust land with the office of the Bureau of Indian Affairs having jurisdiction over the trust land involved and for filing or recording other securing instruments pursuant to the laws of the state in which the property is located or in the proper Customs House. Lenders must also see that:

(1) Effective liens are maintained at all times;

(2) Taxes on the property included in the securing instruments are paid promptly to prevent such taxes from becoming a lien taking priority over a mortgage; and

(3) Hazard and liability insurance is obtained and maintained in an amount sufficient to protect the security against the risks or hazards to which it may be subjected, to the extent customary in the locality.

Failure of a lender to discharge any of these responsibilities will diminish the amount of the guaranty or insurance to the extent of any loss caused by the lender's failure, unless there are extenuating circumstances which in the judgment of the Commissioner do not justify a reduction of the amount guaranteed or insured.

§ 103.29 Property purchased with loan funds.

(a) Lenders making guaranteed or insured loans which include funds to finance construction of buildings, or installation of water, sewage, electrical or gas lines shall assure that the site is appropriate and adequate; cost estimates are prepared and are in line with

current costs; plans are prepared by qualified individuals or a firm; provisions are made to assure compliance with applicable building codes, zoning and labor laws; and inspections are made by qualified inspectors during construction and upon completion. Upon receiving applications involving funds to finance construction, lenders may request assistance and guidance from the Commissioner on such matters. The Commissioner may arrange for an inspection of any property purchased with guaranteed or insured loans at any reasonable time. Property which may be inspected includes proposed building sites, during and on completion of construction of buildings; electrical, sewage, water or gas lines; and livestock and machinery purchased with loan funds.

(b) Lenders will require that any property purchased with a guaranteed or insured loan, except land purchased by a tribe, title to which is taken in trust or restricted status, be mortgaged to the lender as security for the loan, unless the loan is otherwise adequately secured.

§ 103.30 Land.

(a) Indian individuals may execute mortgages or deeds of trust on nontrust or unrestricted land as security without the approval of any Federal official.

(b) Tribal land, title to which is held in a trust or restricted status, may not be mortgaged unless specifically authorized by Congress.

(c) Individually-owned land held in trust or restricted status may be mortgaged as security for a loan in accordance with 25 CFR 152.34 and the Act of March 29, 1956 (70 Stat. 62; 25 U.S.C. 483a). Mortgages of individually held trust or restricted land will include only the acreage of the land owned by a borrower, which the Commissioner considers is adequate to protect the loan in case of default. Mortgages on individually held trust or restricted land shall be subject to foreclosure or sale pursuant to the terms of the mortgage. For the purposes of any foreclosure or sales proceedings, the owner shall be regarded as vested with an unrestricted fee simple title to the land.